

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

Jessica Vizer,

Plaintiff,

v.

ARM WNY, LLC
200 John James Audubon Pkwy, Suite 300
Amherst, NY 14228

and

Domenico D'Angelo
200 John James Audubon Pkwy, Suite 300
Amherst, NY 14228

and

John Does (1-2)

Defendants.

Case No.

**COMPLAINT FOR VIOLATIONS OF
THE FAIR DEBT COLLECTION
PRACTICES ACT**

Jury Demand Requested

Now comes Plaintiff, by and through her attorneys, and for her Complaint, alleges as follows:

JURISDICTION AND VENUE

- 1- This Court has jurisdiction under 28 U.S.C. §1331, §1337, 15 U.S.C. § 1692k(d) (FDCPA). Venue in this District is proper because defendant transacts business here.

PARTIES

- 2- Plaintiff incurred an obligation to pay money, the primary purpose of which was for personal, family, or household uses (the "Debt").
- 3- Plaintiff is a resident of the State of the Illinois.
- 4- Defendant ARM WNY, LLC ("ARM") is a corporation with its principal office in the State of New York.

- 5- Upon information and belief, Defendant Domenico DøAngelo (øDøAngeloö) is the manager, operator, supervisor, and/or de facto owner of ARM, and has direct control over the operations of ARM.
- 6- Upon information and belief, Defendants John Does 1-2 (øDoesö) are managers, operators, supervisors, and/or de facto owners of ARM, and have direct control over the operations of ARM.
- 7- Employees can be held personally liable under the FDCPA. *See Robinson v. Manages Accounts Receivable Corp.*, 654 F. Supp.2d 1051 (C.D. Cal 2009); *see also Schwarm v. Craighead*, 552 F. Supp.2d 1056 (E.D. Cal. 2008).
- 8- Most district courts that have addressed the issue of personal liability have held that the corporate structure does not insulate shareholders, officers, or directors from personal liability under the FDCPA. *See Schwarm v. Craighead*, 552 F.Supp.2d 1056 (E.D. Cal. 2008); *see also Kistner v. Law Offices of Michael P. Margelefsky, LLC*, 518 F.3d 433 (6th Cir. 2008); *Teng v. Metro. Retail Recovery, Inc.*, 851 F.Supp. 61 (E.D.N.Y. 1994); *Del Campo v. Kennedy*, 491 F.Supp.2d 891 (N.D.Cal. 2006); *Brumbelow v. Law Offices of Bennett & Deloney, P.C.*, 372 F.Supp.2d 615 (D. Utah 2005); *Albanese v. Portnoff Law Associates, Ltd.*, 301 F.Supp.2d 389 (E.D.PA 2004); *Brink v. First Credit Res.*, 57 F. Supp.2d 848 (D.AR 1999); *Pikes v. Riddle*, 38 F.Supp.2d 639 (N.D. IL 1998); *Ditty v. CheckRite*, 973 F.Supp. 1354 (D. Utah 1997).
- 9- Unless specifically stated otherwise, the term øDefendantö as used herein shall refer to Defendants ARM, DøAngelo, and John Does (1-2); collectively.
- 10- Defendant uses instruments of interstate commerce for its principal purpose of business, which it the collection of debts.

11- Defendant regularly attempts to collect, or attempts to collect, debts owed or due another.

12- At all times relevant, Defendant owned the Debt or was retained to collect the Debt.

13- Defendant uses instruments of interstate commerce for its principal purpose of business, which is the collection of debts.

FACTS

14- On or around April 17, 2014, Defendant telephoned Plaintiff to collect a debt.

15- During this communication, Defendant threatened to take Plaintiff to court if the debt was not paid.

16- At the time of these communications, Defendant had no intention of filing a lawsuit against Plaintiff.

17- At the time of these communications, Defendant had no control over the timing and/or ability to file a lawsuit against Plaintiff.

18- Defendant damaged Plaintiff.

19- Defendant violated the FDCPA.

COUNT I

20- Plaintiff incorporates all the allegations and statements made above as if reiterated herein.

21- Defendant violated 15 USC § 1692e(5) by threatening to take action that could not be legally taken at the time.

COUNT II

22- Plaintiff incorporates all the allegations and statements made above as if reiterated herein.

23- Defendant violated 15 USC § 1692e(5) by threatening to take action that Defendant did not intend to take at the time.

COUNT III

24- Plaintiff incorporates all the allegations and statements made above as if reiterated herein.

25- Defendant violated 15 USC §1692e(10) by using false representation or deceptive means to collect a debt.

COUNT VI

26- Plaintiff incorporates all the allegations and statements made above as if reiterated herein.

27- Defendant violated 15 USC § 1692f by engaging in unfair and/or unconscionable means to collect, or attempt to collect, a debt.

COUNT V

28- Plaintiff incorporates all the allegations and statements made above as if reiterated herein.

29- Defendant violated 15 USC § 1692e(11) by failing to disclose that a communication was from a debt collector.

JURY DEMAND

30- Plaintiff demands a trial by jury.

PRAYER FOR RELIEF

31- Plaintiff prays for the following relief:

- a- Judgment against Defendant for Plaintiff's actual damages, as determined at trial, suffered as a direct and proximate result Defendant's violations of the Fair Debt Collection Practices Act, pursuant to 15 U.S.C. §1692k(a)(1);
- b- Judgment against Defendant for \$1,000 in statutory damages for Defendant's violations of the Fair Debt Collection Practices Act, pursuant to 15 U.S.C. §1692k(a)(2)(A);
- c- Judgment against Defendant for Plaintiff's reasonable attorney's fees and costs incurred in this action, pursuant to 15 U.S.C. §1692k(a)(3); and

d- Any other legal and/or equitable relief as the Court deems appropriate.

RESPECTFULLY SUBMITTED,

Meier LLC

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